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ARIZONA ATTORNEY GENERAL

October 5, 1984

The Honorable Doug Todd
Arizona State Representative
State Capitol, House Wing
1700 West Washington
Phoenix, Arizona 85007

Re: I84-141 (R84-140)

Dear Representative Todd:

This letter is in response to your inquiry concerning the operation of A.R.S. § 33-1476.I and J which set forth certain notice requirements with which a mobile home park landlord must comply as a prerequisite to evicting tenants due to a change of land use. In particular, A.R.S. § 33-1476.I and J provide as follows:

I. If a change is intended in use of land on which a mobile home park or a portion of a mobile home park is located and the landlord intends eviction of a mobile home tenant due to land use change, the landlord shall notify all tenants in the park in writing that:

1. The use of land change may subsequently result in the termination of a rental agreement.

2. The tenant being terminated due to the use of land change will receive a 180 days notice before the actual termination of the rental agreement.

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J. The landlord shall provide 180 days notice before the actual termination of any rental agreement due to a change in use of land.

You have asked the following questions:

1. Do subsections I and J provide for separate notices?
2. When does the 180 day statutory notice period commence to run?
3. Can a termination notice for change in use be perfected before a change in land use has been approved by appropriate governmental authorities such as zoning commission or city council?^{1/}

For the reasons set forth below, we conclude that subsections I and J do provide for separate notices, but the notices may be given to the tenants concurrently. We also conclude that the 180 day requirement is not dependent upon prior approval of the actual change of land use.

In interpreting A.R.S. § 33-1476, we must look to the plain language of the statute and ascertain the legislature's intent. City of Show Low v. Owens, 127 Ariz. 266, 619 P.2d 1043 (Ct.App. 1980). Paragraph I contemplates two notices: (1) The notice of the change in land use and (2) the notice that the tenant will receive a 180 day notice. Paragraph J provides for the 180 day notice itself.

While two notices are required, there is nothing in A.R.S. § 33-1476 which would prevent the notices from being

1. We note that your question relates to a change in land use which must be approved by a governmental entity such as a zoning commission. However, we do not read A.R.S. § 33-1476 to apply only to changes in land use which must be approved. Rather, change in land use as used in A.R.S. § 33-1476 could apply to any change in land use, regardless of whether approval of a governmental entity is required.

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delivered simultaneously. Thus, so long as a tenant receives notice that there will be a land use change, that he will receive a 180 day notice, and that he is receiving a 180 day notice, the requirements of A.R.S. § 33-1476.I and J have been met.

We do not think that A.R.S. § 33-1476 requires that the 180 day eviction notice be given only after the actual change in land use has been approved, or otherwise takes effect. There is no reference in A.R.S. § 33-1476 that approval of the land use change is a prerequisite to allowing the 180 day notice to be given.^{2/} A.R.S. § 33-1476.C which sets forth the prerequisites to a landlord's right to terminate or refuse to renew a rental agreement provides:

The landlord's right to terminate or to refuse to renew a rental agreement pursuant to subsection B of this section does not arise until the landlord has complied with subsection E, F or I of this section.

When a statute enumerates the subjects upon which it is to operate, it is construed to exclude from its effects all subjects not specifically mentioned. Inspiration Consolidated Copper v. Industrial Commission, 118 Ariz. 10, 574 P.2d 478 (Ct.App. 1977). For this reason, we conclude that, had the legislature included, as a prerequisite to the landlord's right to terminate or refuse to renew a rental agreement, the actual approval of the change of land use by a governmental entity, it

2. In fact, such a conclusion could have the absurd consequence of requiring a mobile home landlord to evict his tenants in order to have an "actual" change in land use before the landlord could give notice under paragraph J of A.R.S. § 33-1476.

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would have included such a condition in paragraph C of A.R.S.
§ 33-1476.

Sincerely,

A handwritten signature in cursive script, appearing to read "Bob Corbin".

BOB CORBIN
Attorney General

BC:SMS:mch